

Aristotle International, Inc.

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COUNSEL
2005 FEB 14 P 5:02

January 7, 2005

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Jeff S. Jordan, Esq.
Supervisory Attorney
Complaints Examination and Legal Administration
Federal Election Commission
999 E Street NW
Washington, DC 20463

Re: MUR 5625

Dear Mr. Jordan:

Please find enclosed the Initial Response of Aristotle in MUR 5625. If you need further information, please do not hesitate to contact me.

Thank you very much.

Very truly yours,



J. Blair Richardson

cc: Joseph Sandler

MUR 5625: Initial Response of Aristotle**INTRODUCTION**

Aristotle hereby submits this response to the complaint filed by a competitor, NGP Software, Inc.

NGP originally filed an Advisory Opinion request seeking permission to provide its clients with FEC contributor information for the purpose of "soliciting contributions" and "regardless of intended use". Following receipt of comments from Aristotle urging denial of NGP's request, the FEC did reject NGP's proposal as a clear violation of 2 U.S.C. § 438(a)(2) and 11 CFR §104.15, which prohibit use of such data for soliciting contributions or for commercial purposes.

NGP subsequently filed an FEC complaint against Aristotle. NGP alleged that Aristotle has violated the law by providing campaigns with access to FEC contributor information through Aristotle's Campaign Manager 5 software. NGP incorrectly claimed that Aristotle was doing what the FEC had prevented NGP from doing.

As described more fully below, Aristotle has made a technologically restricted, non-downloadable subset of limited FEC contributor data available for lawful compliance purposes, and only after careful consideration of the applicable laws, legislative histories, policies and rulings. Aristotle's limited provision of this data is nothing like NGP's proposed illegal usage. Aristotle's position is that it has provided far less access than the law allows, and has done so out of caution and great deference to the controlling legal principles.

I. Aristotle

For over 20 years, Aristotle has been in the business of publishing campaign management software and public record voter list information for lawful uses. The company also offers a number of stand-alone state contributor files that may lawfully be used for soliciting contributions. Aristotle is non-partisan, with clients across the ideological spectrum.

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The Company's stated organizational purpose includes (a) "publishing information used to influence political campaigns, elections, and public policy matters"; and (b) "increasing, in any media, the quality of information reaching the body politic and furthering the goal of the First Amendment to the Constitution of the United States of America of producing an informed public capable of conducting its own affairs."

II. Aristotle's Campaign Manager 5

Aristotle introduced its first version of Campaign Manager software in 1983. The continuously updated program is designed to assist campaigns in such essential campaign management functions as generating FEC and state reports, tracking donations, fundraising, compliance, and general campaign organization.

The software has hundreds of features. One feature, introduced in the spring of 2004, makes a subset of limited FEC contributor data available expressly for compliance purposes. This data does not include a single name, address or other contact information obtained from FEC records. This feature is described in detail in Part V below.

III. Public Availability of Federal Contributor Information

A. Section 438(a)(4) Of The Federal Election Campaign Act

Individual contributor data copied from federal campaign reports or statements is public record information. The law expressly prohibits such data from being "sold or used by any person for the purpose of soliciting contributions or for commercial purposes". See Section 438(a)(4) of the Federal Election Campaign Act ("FECA") (2 U.S.C §438(a)(4)).¹

B. FEC Provides Public Electronic Access to Data

¹ The § 438(a)(4) "commercial purposes" exception was proposed as an amendment to that section by Senator Bellmon of Oklahoma:

Mr. President, the purpose of this amendment is to protect the privacy of the generally very public-spirited citizens who may make a contribution to a political campaign or a political party. We all know how much of a business the matter of selling lists and list brokering has become. These names would certainly be prime prospects for all kinds of solicitations, and I am of the opinion that unless this amendment is adopted, we will open up the citizens who are generous and public spirited enough to support our political activities to all kinds of harassment, and in that way tend to discourage them from helping out as we need to have them do.

The FEC website makes individual donor names, addresses, and contribution data available online and in electronic format that is suitable for mailing lists, cross-matching, manipulation, and full integration into databases. See, e.g. "FEC Electronic Filing Report Retrieval" form, appended hereto as Attachment A. Individuals, candidates, PACs, campaigns, and other political organizations may freely access this data. No contract, signature, commitment or other documentation is required from the recipient. The information is simply made available to all with the following warning on the FEC website:

WARNING!!!:

Any information copied, or otherwise obtained, from any report or statement, or any copy, reproduction, or publication thereof, filed under the Act, shall not be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose, except that the name and address of any political committee may be used to solicit contributions from such committees.

C. Access to FEC Data Through Other Sources

Other publishers of FEC contributor information include www.FECInfo.com and its related site, www.Tray.com, as well as www.Fundrace.org. The sites FECInfo.com and Tray.com do not provide contributor addresses. Fundrace.org publishes the actual contributor addresses obtained from the FEC. These sites also post the FEC warning.

IV. Legal Principles Controlling Publication and Use of Contributor Data

A. Legality of Publication and Use of Contributor Data Depends On Context

In determining whether the publication and use of contributor data violates §438(a)(4), the courts and the FEC have analyzed a variety of factors, including:

- The nature of the medium for presentation of the individual contributor data;
- The data involved;
- How much of the data is accessed;
- Whether the data inclusion is the principal purpose of the overall publication;

- The intended purpose for which the information is accessed;
- The format in which the information is displayed;
- The nature of the end use and the end user;
- The presence of adequate legal notices and disclaimers; and
- A balancing of the privacy interests of individual contributors with statutory intent to promote public disclosure of campaign finance information.

The leading court decisions and FEC advisory opinions are summarized below. A description of Aristotle's presentation of limited FEC data, and how such presentation fits within these decisional guidelines immediately follows such summary in Part V, *infra*.

B. Case Law Interpreting § 438(a)(4)

1. Federal Election Comm'n v. Political Contributions Data, Inc.

It has been established in court that the mere publication of FEC data by a commercial entity is not a violation of the law where the end use of the data is appropriate, and where the FEC's restrictions are prominently conveyed to the end user. In Federal Election Comm'n v. Political Contributions Data, Inc., 943 F.2d 190 (2d Cir. 1991) ("PCD"), the Second Circuit reversed the FEC's and the lower court's findings that PCD, a for-profit company, had violated § 438(a)(4) simply by selling the FEC data, even for lawful end-uses.

The court began by focusing on the purposes of FECA's disclosure provisions:

Congress passed the Federal Election Campaign Act of 1971 ("FECA"; or "the act") in order to, inter alia, require disclosure of campaign contributions and contributors. Congress determined that this disclosure was necessary in order to inform the electorate where campaign money comes from, to deter corruption, and to effectively enforce the act's contribution limitation requirements. See generally Buckley v. Valeo, 424 U.S. 1, 66-68, 46 L. Ed. 2d 659, 96 S. Ct. 612 (1974).

The Second Circuit then examined the relevant facts and circumstances to place PCD's conduct in context. The FEC had originally held in AO 1986-25 that, regardless of context, the mere sale of FEC information by a for-profit entity was unlawful. The court found that although PCD was formed in order to assemble and disseminate FEC data at a profit, the FEC's overly literal application of the statute "would obviously impede, if not entirely

frustrate, the underlying purpose of the disclosure provisions of the FECA". The Second Circuit determined that, so long as the publication for profit was not for the purpose of allowing the lists to be used illegally, the list publisher's rights would be abridged under the FEC's overly strict interpretation of the law.

By reading the statute in a way that avoided the First Amendment problems that the FEC's interpretation would engender, the Court did not reach what it described as the "important and troubling First Amendment implications raised by any construction of the statute that bars the use of the information at issue in this case by organizations such as the defendant."

As the FEC website summary of the PCD case states, the court's reading of §438(a)(4) "balance[d] the need to protect the privacy of individual contributors with statutory intent to promote public disclosure of campaign finance information." (emphasis added.) See <http://www.fec.gov/info/casums3.htm>. Thus, the Court held, despite PCD's "literal" status as a "commercial" entity, the sale of the lists was not "commercial" for purposes of the statute. The critical factor was that the list publisher was "furthering the openness and disclosure purposes of the FECA", without violating "the privacy interests of contributors". 943 F. 2d at 196-97.

At the heart of the Court's analysis of how to interpret the term "commercial" under §438(a)(4) of the Federal Election Campaign Act, was a methodology that looked to "congressional intent" and the "underlying purpose" of the Act, see id. at 194-197, and placed the publication in context. In reaching its conclusion, the Court in PCD found the FEC's position to be "unreasonable" -- a finding that ultimately led to the FEC's payment of PCD's attorney's fees after an unsuccessful appeal by the FEC to the U.S. Supreme Court.

Since the PCD case, the courts have had other occasions to examine the use and dissemination of FEC contributor data, and have continued to analyze the scope and context of the publication.

2. FEC v. International Funding Institute, Inc.

Following the PCD case, the U.S Circuit Court for the District of Columbia found a violation of §438(a)(4) where the defendant developed the contributor data into a mailing list, which the defendant then marketed through a broker. The broker, in turn, rented the list to customers, including a political committee, which used the list to solicit individuals. FEC v. International Funding Institute, Inc., 969 F.2d 1110, 1116-1118 (D.C. Cir. 1992) ("IFI").

Although the court ruled against the defendant, the court also noted that use of the FEC contributor data to contact individuals for certain purposes can be permissible so long as the contact was not to solicit contributions or some other commercial purpose. The D.C. Circuit's opinion offered a construction of §438(a)(4) suggesting that names on file at the FEC can be used freely "to seek popular support for a particular policy, or to solicit signatures on a petition, or to urge recipients not to contribute to a rival cause..." 969 F.2d at 114, 115. *But see* AO 2003-24. *See also* AO 2003-24 (concurring opinion, noting IFI holding).

Like PCD, the IFI case clearly stands for the proposition that certain uses of the data that involve use of FEC data to contact contributors will be permissible, while others may not. This opinion, like that of the PCD case, again reveals that the context of an entity's usage of the data must be examined in each case. It is therefore the rule in two federal circuit courts that there is simply no "one-size-fits-all" standard with respect to the publication and use of contributor data.

3. FEC v. Legi-Tech

In 1997, the U.S. District Court for the District of Columbia granted the FEC's motion for summary judgment and imposed a \$20,000 civil penalty on Legi-Tech, after it used information obtained from disclosure reports filed with the FEC for commercial purposes in violation of the Federal Election Campaign Act. FEC v. Legi-Tech, Inc., 967 F. Supp. 523 (D.D.C. 1997).

Legi-Tech had created mailing lists after copying contributor information directly from disclosure reports filed with the FEC, entering this information into a computer database,

and adding telephone numbers of contributors. Legi-Tech sold the list to its customers, and Legi-Tech was aware that some of its customers used the information to solicit contributors.

The court agreed with the Commission when it stated that a publisher's use of the names and addresses from disclosure reports filed with the FEC is permissible so long as that use is incidental to the sale of a larger publication. What is not permissible is when the use of contributor information is, in fact, the "principal purpose and primary focus" of the publication. See *Id.* at 535.

The court deferred to the FEC's construction of §438(a)(4) that Legi-Tech was serving as a list broker, and that the sale of FEC data was the primary purpose of the publication, rather than incidental to a larger publication.

C. Advisory Opinion 2004-24 (The NGP Opinion)

Claiming to be the "leading national software and technology consulting firm" for Democrats, in AO Request 2004-24, NGP Software, Inc. proposed several obviously illegal uses of FEC contributor data. In plain contravention of all relevant legal authority, NGP asked whether it could "sort and organize" FEC data and "match them into a client's database based on the client's needs", including for the express purpose of "soliciting contributions". NGP also asked if it could provide data to its customers "regardless of intended use". See Advisory Opinion Request 2004-24.

NGP's request to provide contributor data for unlimited uses – including both political and commercial solicitations – ran afoul of the plain language of the statute in two ways.

NGP's proposal violated the express prohibitions on use of the data for "soliciting contributions", and on selling the data "regardless of intended use", so that it could be used for purposes such as commercial solicitation and other harassment of contributors. NGP provided no other context or details. NGP also gave no indication that it would even advise its customers of the FEC restrictions. To the contrary, NGP apparently intended that the data be used for soliciting contributions. The purported basis for NGP's plainly illegal proposal was the possibility that the FEC might "reinterpret" §438(a)(4), in light of the FEC's recent practice of widely distributing such information through the Internet, or

in light of the legal changes that occurred as a result of the Bipartisan Campaign Reform Act of 2002." See Advisory Opinion Request 2004-24.

The FEC then issued Draft AO 2004-24, which not only declared NGP's proposed scheme to be illegal, but also stated that the mere inclusion of any individual contributor FEC data in campaign software was unlawful use "for a commercial purpose because NGP is a for-profit company that sells and services NGP Campaign Office for a profit."

Aristotle filed a comment urging the FEC to reject NGP's request, yet expressing concern that this quoted language was overbroad. By unanimous vote, the FEC's final opinion unanimously declared NGP's proposed scheme to be illegal, and, at the same time, removed the language stating that any inclusion of the data by a for-profit campaign software company would necessarily be illegal.

The removal of such language was significant, for it underscored the FEC's commitment to a context-based analysis in each case involving publication or use of individual contributor data. This same commitment, in fact, is reflected in all of the Advisory Opinions cited in AO 2004-24. See also AO 1984-2 ("The prohibition is intended to prevent the use of contribution information taken from disclosure documents filed under the Act to make solicitations. It is not intended to foreclose the use of this information for other, albeit political, purposes, such as correcting contributor misperceptions.")

The FEC's final version of AO 2004-24 stated that it was addressed "to the specific transaction or activity set forth in [NGP's] request". As set forth in the next section, Aristotle's very limited access to FEC data conforms to controlling precedent and applicable law, and does not remotely resemble the facts underlying NGP's advisory opinion request for permission to "match [FEC data] into a client database" for "soliciting contributions", and "regardless of intended use".

V. Access to Limited FEC Data in Campaign Manager 5 for FEC Compliance

A. Overview of Aristotle's Limited FEC Data Offering

Aristotle offers a subset of FEC data, in a technologically limited, non-downloadable format, and requires that such data be used for compliance. The data does not include any names, addresses, or contact information obtained from the FEC. The access

provided is in keeping with the U.S. Supreme Court's admonition in Buckley v. Valeo that one of the principal purposes of the FECA's disclosure requirements is to effectively enforce the act's contribution limitation requirements. See generally Buckley v. Valeo, 424 U.S. 1, 67-68, 46 L. Ed. 2d 659, 96 S. Ct. 612 (1974).

B. Limits on Technological Functionality and Scope of FEC Data

Others, including the FEC, offer FEC data that includes contributor names and addresses. Such others offer the data in electronic formats that are ideal for merging, matching, and other interactive, automated generation of contacts to the contributors. In contrast, as just one of hundreds of features in Aristotle's Campaign Manager 5 finance, reporting and compliance software, Aristotle offers limited access to a subset of FEC data only as follows:

- Campaign Manager 5 only provides access to FEC contribution information for individuals whose names and addresses the customer already has in its database. Names and addresses of contributors from FEC records are not provided through Campaign Manager 5. A campaign therefore cannot obtain a contributor name or address through CM 5's FEC data feature.
- Federal contribution information obtained from the FEC may be accessed through the software only after the campaign has identified the individual for solicitation and then physically, manually accessed the specific individual's pre-existing record from within its own database.
- This information is only made available in a drop-down format on a single record-by-record basis.
- The contribution record is not made available in an interactive format or one where the information may be manipulated.

- Only if an individual has been identified by the campaign for solicitation based on information not obtained from FEC records, will the campaign be able to access the drop-down information for that particular prospect.

- Because the FEC data is not matched into the client's database, the software does not allow for the downloading or importing of any FEC contributor information into the client's database.

- Because the FEC data is not matched into the client's database, the software also does not have the capacity to search on FEC records. Thus, for example, in this software environment the campaign CANNOT search for large donors, and CANNOT ask the system who gives to what kind of candidates. Nor can the campaign utilize the FEC contributor data for any other type of automated data sorting. The campaign therefore cannot create any kind of lists of solicitation targets based on searches of FEC contribution history.

C. Informing Customers of Legal Restrictions on Data

It is beyond peradventure that campaigns may legitimately utilize individual contributor data for lawful purposes, and presumably, they routinely do so with data obtained from the FEC and other publishers of the data.² Since FECA was passed, no law or regulation has ever limited a campaign's right to access individual federal contributor data, and no such law could pass constitutional muster. Appropriate uses plainly include compliance purposes such as checking aggregate contributions to insure that limits are not exceeded.

² Aristotle does not know which campaigns have downloaded or otherwise accessed individual contributor data from the FEC and other third-party publishers, but assumes that such factual information would be available pursuant to a FOIA request or subpoena.

Campaigns also cannot be prevented from using the FEC data for vetting donors who give to those with whom the candidate may not wish to be associated.

In the CM 5 software itself, in the software manual, and in related advertising, Aristotle diligently informs its customers of the legal restrictions on the FEC data accessed in drop-down format through CM 5. By contract, Aristotle also requires adherence to such rules and imposes financial liabilities for misuse. These notices and requirements, combined with the technological limits on the subset of FEC data available through CM5, far exceed the limitations placed on the data that is available through the FEC or any other source.

1. **Campaign Manager 5 Contract Terms and Conditions**

Aristotle CM 5 customers have greater restrictions and liabilities imposed for their misuse of FEC contributor data than do those who obtain the data directly from the FEC or any other third party. For example, Aristotle's Campaign Manager 5 contract expressly informs the campaign of the legal restrictions on use of FEC contributor data and incorporates such restrictions into the contract:

****WARNING: FEC Compliance. By law, the FEC's public record contribution information may not be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose. Campaign Manager 5 provides access to this information in a drop-down format for individuals whose names and addresses you have in your database, and whom you have already identified for solicitation. The Federal contribution information will appear only after you have accessed the individual's record from within your own database, and it may be used solely for the purpose of insuring that the contributor does not exceed his or her contribution limits or otherwise make an unlawful contribution. Campaign Manager 5 makes the information available for compliance purposes only, and does not allow for the downloading or importing of FEC contributor information.***

Aristotle customers also contractually agree to pay all of Aristotle's attorneys' fees in the event of litigation between the parties, and such litigation would necessarily include any enforcement proceeding in which the customer is found to have used the FEC data for unlawful solicitation or other improper purpose.

By virtue of these protections and requirements, Aristotle believes that it imposes a more comprehensive and serious scope of obligations and liabilities on a user than if the user were to obtain the data directly from the FEC or other third party.

2. On-screen Notices in the Software

To engender even higher awareness of, and compliance with, applicable legal restrictions on use of the data, Aristotle also places the following onscreen warning about the specific restrictions directly onto the page where the drop-down information about a single contributor can be accessed.

FEC DATA WARNING!!!

Any information copied, or otherwise obtained, from any report or statement, or any copy, reproduction, or publication thereof, filed under the Act, shall not be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose, except that the name and address of any political committee may be used to solicit contributions from such committees.

In addition, to clarify further the purposes for which the data may be used, Aristotle has changed the menu title or "tab" for this section from "Donations" to "Compliance/Vetting"

3. Campaign Manager 5 Software Manual

The Campaign Manager 5 software manual also fully explains the usage of this feature, stating:

Campaign Manager 5 makes a very limited subset of FEC information available for compliance purposes only, such as insuring against accepting excessive or illegal contributions. The data may also be used to refuse or reject contributions from donors who give to those with

whom you may not wish to be associated. This information is not made available here in an interactive format or one where the information may be manipulated, and our software does not allow for the downloading or importing of any FEC contributor information into the client's database. Full searchable and downloadable databases of FEC data are available from www.fec.gov. By law, information copied from FEC reports "may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes...." (The names and addresses of political committees, however, may be used for solicitation purposes.)

4. Promotional materials

The drop-down FEC information was introduced in the spring of 2004. Aristotle's website describes the feature as follows:

Only Campaign Manager 5 can tell you how much your existing contributors and supporters have given to others. Although this data is directly available from state agencies and the FEC, its reference in Campaign Manager 5 allows you to easily conform your fundraising to state and federal compliance standards.

This represents a modification of the website language noted in the complaint, with a clarification of appropriate use. The previous website language specifically referenced "state candidates, PACs or party organizations", because Aristotle makes available certain state contributor databases that a campaign may purchase and that may lawfully be used for solicitation. Out of an abundance of caution, the website language has been changed to avoid any possible confusion between the uses for the two types of data, and to clarify that reference to FEC data is expressly for the campaign "to easily conform [its] fundraising to state and federal compliance standards"

A similar change has been made to a page from an obsolete Aristotle PowerPoint presentation, and that was intended to refer to lawful use of state contributor databases for soliciting contributions. The earlier page, which was mentioned in NGP's complaint, contained a screen shot of the software with the old "Donations" menu tab, and without the onscreen FEC data warning.

Because of the confusion that this PowerPoint screen may have generated, and to clarify that only the full state contributor databases separately offered by Aristotle may be used for solicitation, the page has been modified. It now contains a screen shot of the software with the "Compliance/Vetting" tab and the "FEC DATA WARNING". It also expressly indicates that use of the FEC data in the drop-down menu is for compliance purposes, to ensure that the campaign is "free of excessive or improper contributions". See Attachment B, appended hereto

5. Statement of Aristotle's President

In order to underscore the appropriate uses of the FEC data in CM 5, Dean Phillips, Aristotle's president, issued the following company-wide statement following Aristotle's submission of comment on Draft AO 2004-24:

Reminder and Update re: Developments Concerning FEC Individual Contributor Information

I want to take this opportunity to reaffirm the use and presentation for the limited FEC data that clients may access through CM5.

To maintain continued compliance with legal standards for the use of FEC data, we want to insure that FEC Individual contributor information is "not sold or used by any person for the purpose of soliciting contributions or for any commercial purpose".

In order to better clarify and underscore the appropriate uses (as specified in the manuals and FEC guidelines) as they relate to our screens, we have decided to rename one of the tabs from "Donation" to "Compliance/Vetting". This is in keeping with the appropriate use of the information. Please remember that the limited individual contributor data we present is provided in what we have determined is an appropriate format under the law (which format is actually far more restricted than what is found on the FEC's website and elsewhere). The information is in a drop-down format for an individual whose name and address is

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already contained in the user's compliance database, and whose record the user has already been identified and called up from its own database for solicitation. We provide no access to address/telephone information from the FEC and we do not store or integrate the data into the client's database. The Federal contribution information will appear only after the user has accessed the individual's record from within the user's own database, and it may be used solely for the purpose of insuring that the contributor does not exceed his or her contribution limits or otherwise make an unlawful contribution. Campaign Manager 5 and PAC Manager 5 make this limited subset of FEC information available for compliance purposes only. This information is not made available in an interactive format or one where the information may be manipulated, and our software does not allow for the downloading or importing of any FEC contributor information into the client's database. The clients are further admonished to comply with the FEC guidelines, which are clearly stated in their contract as well as in the manuals, screens, and company newsletter.

While not difficult to comply responsibly with these standards, other vendors have requested permission from the FEC to make the FEC individual contributor information available to their clients in a manner and for purposes that we believe are clearly not allowed by law.

As part of our ongoing commitment to compliance, we have recently requested that the FEC reaffirm the appropriate standards by denying a request by one of our competitors to fully integrate FEC contributor data into their software application for solicitation purposes. We have made it clear to the FEC, as we have done and will continue to do with our clients, that we regard any FEC-supplied contributor information to be for non-solicitation purposes. Should a client seek more guidance on this subject, we recommend that they review the simple language of the FEC restrictions that we have provided to them, and with which they agree to comply, as a condition of utilizing this valuable compliance feature of our

software.

CONCLUSION

Candidates and campaigns may lawfully obtain lists of FEC data for numerous compliance and vetting purposes that do not involve use of the data for soliciting contributions. If not, then all such access would be presumptively illegal.

Here, Aristotle expressly makes campaigns aware of the FEC restrictions at every stage of the process, and incorporates the restrictions into the CM5 contract itself. Campaigns also are expressly made aware that the data may only be used for lawful compliance or vetting purposes. Aristotle does not even go so far as to suggest that the campaign may use the data for the additional purposes set out in the IFI decision.

Campaign Manager 5 *never* provides campaigns with any contributor contact information obtained from the FEC. The software is structured so that data may only be viewed on a single, record-by-record basis for individuals whose record the campaign has already manually accessed and targeted for solicitation based on contact information previously in the campaign's database. Aristotle only provides this limited data in a non-interactive, non-integrated format that does not allow for searching on FEC data or list creation based on FEC data criteria. Under these circumstances, it is difficult to see how the contributor's "privacy" is violated in any way, particularly when balanced with the fact that the software's lawful compliance purposes are expressly emphasized and furthered.

Moreover, Aristotle has clarified and removed any possible ambiguity in the two isolated marketing statements about the different legal uses for FEC data and certain state contributor databases that may be used for solicitation.

In sum, the FEC data reference provided by Campaign Manager 5 does not resemble any of the fact patterns where the FEC and/or any court has found a violation of §438(a)(4). Anyone seeking to use FEC data unlawfully for locating possible solicitation targets, searches, data integration and list creation, could do so with data obtained directly from

the FEC or other publishers of the data in electronic or other downloadable formats. Access through Campaign Manager 5 would not provide such capabilities.

Aristotle urges the FEC to apply the law to the facts in this case so as to serve the congressional purposes of furthering the openness and disclosure purposes of the FECA, while recognizing the benefits of expressly making the data available for compliance. As the software is designed, there is virtually no possibility of "invasions of contributor privacy" that would be occasioned by all kinds of solicitations." Making the FEC data available is only one of many hundreds of functions in the software, and is certainly not the primary purpose of the publication of Aristotle's Campaign Manager 5 software. Aristotle further urges the FEC to examine the context of Aristotle's offering and to resolve it in a way that does not raise troubling constitutional questions under the First Amendment or the Equal Protection Clause.

Aristotle's reference to FEC data in Campaign Manager 5 not only complies with the law, but also is well within the boundaries of acceptable compliance usage. The software's reference to FEC data is restrained, responsible, and only performed to the extent necessary to enable compliance. Taxpayer funds should not be used to continue a disruptive investigation caused by NGP's competitively-motivated claim that Aristotle's lawful presentation of the FEC data for compliance resembles in any way the illegal NGP scheme that was rejected by the FEC in AO 2004-24.

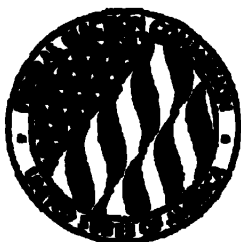
Respectfully submitted for Aristotle by



J. Blair Richardson

General Counsel and Chief Privacy Officer

Attachment A



FEC Electronic Filing Report Retrieval

Committee ID:

C

Partial Name of Candidate/Committee:

State (Select as many as appropriate):

ALL
ALASKA
ALABAMA
ARKANSAS

Party Designation (Select as many as appropriate):

ALL
AMERICAN INDEPENDENT CONSERVATIVE
AMERICAN INDEPENDENT PARTY
AMERICAN PARTY

Committee Type (Select as many as appropriate):

ALL
COMMUNICATION COST
DELEGATE
HOUSE

Type: Report

Date Filed:

Form Type:

Send Query

Clear Form

WARNING!!!:

Any information copied, or otherwise obtained, from any report or statement, or any copy, reproduction, or publication thereof, filed under the Act, shall not be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose, except that the name and address of any political committee may be used to solicit contributions from such committees.

Last modified: 12 December 2001



Reason #1: Raise More Money.

Only Campaign Manager 5 has a seamless interface to millions of detailed contribution records.

When researching a contributor for compliance purposes, Campaign Manager will show you the contributor's giving history.

The giving history of an organization is free of charge. The giving history of individuals is free of charge.

When researching a contributor for compliance purposes, Campaign Manager will show you the contributor's giving history.

When researching a contributor for compliance purposes, Campaign Manager will show you the contributor's giving history.

Summary	Personal Pledge	Call Log	Candidate/Volunteer	Report
GRAND Target: \$200,000 Actual: \$122,000 Remaining: \$78,000	Next Due <12> (TOTAL)	Target: Actual: Remaining:	Target: Actual: Remaining:	Report
09/01/2000 09/01/2000 09/12/2002 12/31/1995 05/25/1996	\$122,000 \$122,000 \$78,000 \$100,00 \$100,00	McDONALD McDONALD McDONALD McDONALD McDONALD	McDONALD McDONALD McDONALD McDONALD McDONALD	FEDERAL FEDERAL FEDERAL STATE STATE

FEC DATA WARNING:

Any information reported, or otherwise obtained, from any FEC report or statement, or any campaign, or publication thereof, that under the Act, shall not be used or used by any person for the purpose of soliciting contributions or for any commercial purpose, except that the name and address of any political committee may be used to solicit contributions from such committee.